

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears in an attachment. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with William Peter Long on September 11, 2009.

The application has been amended as shown in "Attachment to Examiner's Amendment".

REASONS FOR ALLOWANCE

The following is an examiner's statement of reasons for allowance:

Claim 1 is representative of the present invention and directed to an anti-wrinkle cosmetic composition comprising about 0.1 to about 2.1 % by weight of a purified essential oil extracted from the flower tops of *Helichrysum italicum* in relation to the weight of the composition, wherein the essential oil comprises 50 to 70 % by weight of neryl acetate.

Amrita is considered the closest prior art of record. ("*Helichrysum italicum*", 1999, printed online <http://www.amrita.net/aromatherapyinfo/helichrysum.html> on April 22, 2002). The reference teaches a cosmetic composition comprising an essential oil of *Helichrysum italicum* flower top without disclosing the amount of the essential oil or the amount of neryl acetate present therein. According to applicant's declaration filed under 37 C.F.R. § 1.132, dated September 23, 2009, the prior art essential oil contains at most 35.57 % of neryl acetate as assessed using GC/MS chromatography methods. This evidence effectively shows that Amrita fails to anticipate the present composition which utilizes the essential oil of a different chemical composition.

The present claims are also nonobvious over the prior art as one of ordinary skill in the art would not have been motivated nor enabled to make the claimed composition without applicant's disclosure. Evidence shows that regional and seasonal difference contributes to the significant variation in the chemical composition of plants. However, none of the prior arts of record teaches or suggests the essential oil of the *Helichrysum italicum* plants from the specific

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region (i.e., Corsica region) having 50-70 % by weight of neryl acetate as applicant has used in the present composition. For example, Satta et al. indicates that the essential oil obtained from a *Helichrysum italicum* sample contains only 28.9% of neryl acetate. (Chemical Abstracts, vol. 132, no. 17, April 4, 2002, "Analysis of essential oil of *Helichrysum italicum*" J. Essent. Oil Res. 1999, 11(6), 711-715). According to the applicant's § 132 declaration discussed above, the Amrita essential oil contained 35.57% or 9.53 % of neryl acetate by weight. In this case, although Amrita teaches *Helichrysum italicum* flower essential oils have been used in cosmetics, the reference, neither by itself or in combination with other teachings, would not have taught, suggested, or motivated one of ordinary skill in the art to modify the prior art to make the present composition, which employs the plant extract having a significantly different chemical composition.

Therefore, examiner is of opinion that there is nothing in the prior arts at the time of the present invention that would have taught, suggested, or motivated a skilled artisan to look for or to make the cosmetic composition comprising the *Helichrysum italicum* extract of the specific amount of neryl acetate as presently claimed.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to GINA C. YU whose telephone number is (571)272-8605. The examiner can normally be reached on Monday through Thursday, from 8:00AM until 6:00 PM..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sharmila Landau can be reached on 571-272-0614. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Gina C. Yu/
Primary Examiner, Art Unit 1611